

Remarks

Reconsideration of the Examiner's Action dated November 12, 2004 is requested.

Status of the Claims

The Examiner's Action addressed all of the applicants' pending claims, namely Claims 1 to 75 and 77 to 147, and indicates that Claims 1 to 75, 77, 79, 81, and 87 to 147 are allowed. Claims 78 and 80 have been amended. No claims have been added. No claims have been cancelled. Accordingly, there are presented for the Examiner's consideration those claims which have not been allowed, namely, Claims 78, 80, and 82 to 86.

Discussion of the § 112 rejection in Paragraph 5. of the Action

Claims 78, 80, and 82 to 86 have been rejected under 35 U.S.C. 112, second paragraph. It is submitted respectfully that this rejection has been overcome in view of the above claim amendments. Claim 78 has been amended by inserting the term --or-- in the definition of Y to conform with the original Claim 78, col. 117, line 63, of involved U.S. Patent No. 5,364,866. Claim 80 has been amended by underlining the term "a" before the phrase "pharmaceutically acceptable acid addition" for grammatical reasons. By amending in this manner Claims 78 and 80, and by reference dependent Claims 82 to 86, it is believed that this rejection has been overcome, therefore, reconsideration by the Examiner and withdrawal of this rejection are therefore requested respectfully.

Group Art Unit 1624  
Reissue Application No. 09/712,129

February 10, 2004  
Attorney Docket No. P25,984 REI

Other matters

In a telephone interview of November 10, 2003 with the undersigned, the Examiner requested that applicants file a reissue declaration. Applicants respectfully note that a reissue declaration was filed on June 13, 2002, however another copy thereof is provided herewith.

The Examiner's request that original patent be submitted will be fulfilled upon our indication that all claims are allowed.

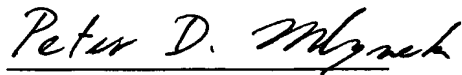
Conclusion

In view of the foregoing claim amendments and remarks, applicants request that the claims be allowed.

In the event any issues remain outstanding, the Examiner is requested to call he undersigned at the telephone number listed below.

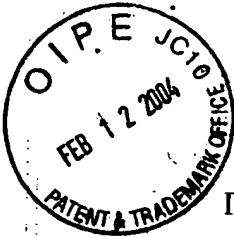
The Commissioner is authorized hereby to charge any fees or credit any overpayment associated with this Reply (copy enclosed) to Deposit Account Number 19-5425.

Respectfully submitted,  
Synnestvedt & Lechner LLP



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09/712,129

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT  
Attorney Docket No. 2489.0028-11

FEB 20 2004

In re Reissue Application of:  
U.S. Patent No. 5,364,866

Joseph T. STRUPCZEWSKI et al.

Reissue Serial No.: Unassigned

Filed: Herewith

For: HETEROARYLPIPERIDINES,  
PYRROLIDINES AND PIPERAZINES AND  
THEIR USE AS ANTIPSYCHOTICS  
AND ANALGETICS

Group Art Unit: Unassigned

Examiner: Unassigned

**BOX REISSUE**

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

**REISSUE DECLARATION UNDER 37 C.F.R. § 1.175**

We, Joseph T. Strupczewski, Grover C. Helsley, Yulin Chiang, Kenneth J. Bordeau, and Edward J. Glamkowski,, all citizens of the United States with residences and post office addresses as listed below, do hereby state and declare as follows:

1. We believe we are the original joint inventors of the subject matter which is described and claimed in United States Patent No. 5,364,866, granted on November 15, 1994, and for which a reissue patent is sought on the invention entitled, "Heteroaryl piperidines, Pyrrolidines and Piperazines and Their Use as Antipsychotics and Analgetics."

**Reissue Application of  
Patent No. 5,364,866  
Atty. Docket No. 2489.0028-11**

2. We hereby state that we have reviewed and understand the contents of the above-identified specification, including the original patent claims, and the claims in the Preliminary Amendment filed herewith.
3. We acknowledge the duty to disclose information that is material to the examination of this reissue application in accordance with Title 37, Code of Federal Regulations, Section 1.56(a).
4. We believe that U.S. Patent No. 5,364,866 is at least partially inoperative or invalid because, without any deceptive intention, we claimed more or less than we had the right to claim in the patent.
5. An error which is a statutory basis for reissue is that at least some of the patent claims cover subject matter described in European Patent Application No. 402,644 (EP '644) published December 19, 1990. Applicants are filing this Reissue Application in order to overcome this reference.
6. The above-described error and all other errors corrected in this reissue application arose without any deceptive intent.
7. We hereby declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the

**Reissue Application of  
Patent No. 5,364,866  
Atty. Docket No. 2489.0028-11**

United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

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